

Appl. No. : 10/814,412  
Filed : March 31, 2004

## REMARKS

By way of summary, Claims 1-25 were originally filed in the present application. Through previous amendments, Claims 26-31 were added. Claims 1, 8, 16, 19, and 30 are amended herein. Claims 10 and 25 are canceled herein. Thus, Claims 1-9, 11-24, and 26-31 are pending in the present application.

Amendments to the claims set forth above include markings to show the changes by way of the present amendment, deletions being in strikeout (e.g., ~~deletion~~) and additions being underlined (e.g., addition).

### Claims 1-2, 4-15, 19, 20, 23, 24, and 27-31 Are Allowable Over Takahashi '928 In View Of Uchida

Claims 1-2, 4-15, 19, 20, 23, 24, and 27-31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,349,928 to Takahashi et al. ("Takahashi '928") in view of U.S. Patent No. 5,630,386 to Uchida ("Uchida").

Applicant respectfully disagrees with the characterization of the references and with the rejection of the claims. Nevertheless, to expedite the issuance of the pending claims, Applicant has amended Claims 1, 19, and 30 to distinguish more clearly the claims over the applied references. In view of the following discussion, Applicant respectfully submits that these claims are in condition for allowance.

### Claims 1-2, 4-15, and 27

Amended Claim 1 recites:

An engine for an outboard motor wherein the engine is vertically positioned within an engine cowling, the engine comprising an engine body including a plurality of combustion chambers, a crankcase member comprising a crankshaft that is disposed to rotate about a generally vertical axis, and an air induction system for supplying air to the combustion chambers, the air induction system comprising a support member defining at least one flow passage, the support member being attached to the crankcase member, *a flow control device disposed above the support member and supported by the support member*, the flow control device being positioned upstream of the flow passage and communicating with the flow passage so as to regulate an amount of air flow through the flow passage, at least two runners, the runners positioned on opposite sides of the engine body from each other and being in fluid communication with at least one corresponding combustion chamber and with the flow passage of the support member, one end of each runner being supported by the support member and the other end of each

runner being supported by the engine body, the flow passage being positioned to deliver air flow from the flow control device to the ends of the runners supported by the support member.

Takahashi '928 and Uchida do not teach or suggest each and every limitation of Claim 1. For example, Takahashi '928 and Uchida do not teach, among other things, a flow control device disposed above a support member and supported by the support member.

Takahashi '928 teaches an engine with a carburetor unit 62 having a choke valve 66 and a throttle valve 64. Takahashi '928, Figs. 3a and 3b; *see also id.* Col. 3, lines 15-22. According to the Examiner, a flow passage is located between an air intake box 68B and the choke valve 66 of the engine. Office Action mailed January 31, 2006, Page 3. The Examiner identifies the air intake box 68B as being a support member and the choke valve 66 as being a flow control device. *Id.*, Pages 2-3. In contrast to the structure recited in Claim 1, the choke valve 66 is disposed on the side of the air intake box 68B, not above the air intake box. *See* Takahashi '928, Figs. 2, 3a, and 3b. Takahashi '928 thus does not teach, *inter alia*, the arrangement of the air intake components recited in Claim 1.

Uchida describes an air intake structure for a V-type engine 21 having a throttle body 128 connected to the front of a plenum chamber 124. Uchida, Col. 1, lines 4-6 and Col. 5, lines 66-67; *see also id.*, Figs. 4 and 5. Uchida explicitly discloses that its throttle body 128 is positioned in front of (and, therefore, to the side of) the plenum chamber 124. Moreover, Uchida does not disclose any type of support member similar to the structure of the support member recited in Claim 1. Thus, Uchida does not teach, among other features, a flow control device disposed above a support member and supported by the support member.

Takahashi '928 and Uchida thus do not contain each and every limitation of Claim 1, and Applicant respectfully submits that Claim 1 is in condition for immediate allowance. Dependent claims 2, 4-15, and 27 depend from independent Claim 1. These claims are allowable as depending from an allowable base claim, as well as for novel and non-obvious combinations of elements recited therein.

**Claims 19, 20, 23, and 24**

Amended Claim 19 recites, among other features, an induction air support member and a throttle body such that "the throttle body is disposed above the induction air support member."

For at least the reasons set forth above with respect to Claim 1, Takahashi '928 and Uchida do not teach, among other things, a throttle body disposed above an induction air support member.

Therefore, Takahashi '928 and Uchida do not teach or suggest each and every limitation of Claim 19. Accordingly, Applicant respectfully submits that Claim 19 is in condition for immediate allowance. Dependent claims 20, 23, and 24 depend from independent Claim 19. These claims are allowable as depending from an allowable base claim, as well as for novel and non-obvious combinations of elements recited therein.

#### Claims 30 and 31

Amended Claim 30 recites, among other features, an induction air support member and a throttle body, "the induction air support member being disposed below the throttle body and supporting the throttle body." For at least the reasons set forth above with respect to Claim 1, Takahashi '928 and Uchida do not teach, among other things, an induction air support member disposed below the throttle body and supporting the throttle body.

Therefore, Takahashi '928 and Uchida do not teach or suggest each and every limitation of Claim 30. Accordingly, Applicant respectfully submits that Claim 30 is in condition for immediate allowance. Dependent claim 31 depends from independent Claim 30. This claim is allowable as depending from an allowable base claim, as well as for novel and non-obvious combinations of elements recited therein.

#### Claims 3, 16-18, 25, 26, 28 and 29 Are Allowable Over Takahashi '928 In View Of Takahashi '402 and Uchida

Claims 3, 16-18, 25, 26, 28 and 29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Takahashi '928 in view of U.S. Patent No. 5,829,402 to Takahashi et al. ("Takahashi '402") and Uchida.<sup>1</sup>

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<sup>1</sup> The Office Action indicated that Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as unpatentable over Takahashi '928 in view of Uchida. Claims 28 and 29, however, depend from Claim 16, which was rejected but not on the same basis. Rather, Claim 16 was rejected as unpatentable over Takahashi '928 in view of Takahashi '402 and Uchida. Accordingly, for the purpose of this response, Applicant has assumed that the rejection of Claims 28 and 29 was additionally based upon the stated teachings of the Takahashi '402 reference.

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**Claims 16-18, 26, 28 and 29**

Amended Claim 16 recites, among other features, an induction air support member and a throttle body such that “the throttle body is disposed above the induction air support member.”

As discussed on pages 8 to 9 of this response, Takahashi ‘928 and Uchida do not disclose, among other things, a throttle body disposed above an induction air support member. Takahashi ‘402 discloses an induction system for a marine propulsion engine. Takahashi ‘402, Col. 1, lines 4-6. Takahashi ‘402 does not overcome the deficiencies of Takahashi ‘928 and Uchida.

Therefore, Takahashi ‘928, Takahashi ‘402, and Uchida do not teach or suggest each and every limitation of Claim 16. Accordingly, Applicant respectfully submits that Claim 16 is in condition for immediate allowance. Dependent claims 17, 18, 26, 28 and 29 depend from independent Claim 16. These claims are allowable as depending from an allowable base claim, as well as for novel and non-obvious combinations of elements recited therein.

**Claim 3**

Claim 3 depends from independent Claim 1. As discussed above with respect to Claim 1, Takahashi ‘928 and Uchida do not teach, among other things, a flow control device disposed above a support member and supported by the support member. Takahashi ‘402 does not overcome the deficiencies of Takahashi ‘928 and Uchida. Therefore, Takahashi ‘928, Takahashi ‘402, and Uchida do not contain each and every limitation of Claim 3. Accordingly, Applicant respectfully submits that Claim 3 is in condition for immediate allowance.

**Claim 25**

Applicant has canceled Claim 25 herein because the limitation of Claim 25 has been incorporated into amended Claim 16. Applicant does not submit that the limitation of Claim 25 is necessary to the patentability of Claim 16 but, nevertheless, Applicant has amends Claim 16 in order to define further the invention recited by Claim 16.

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**Conclusion**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant has not presented arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above. Applicant reserves the right to later contest whether a proper motivation and suggestion exists to combine these references, taking into account the disclosure in the applied references that teaches away from the combination made in the pending Office Action.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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